

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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MICHAEL ANTHONY HANGMAN,

Case No. 21-CV-0626 (MJD/JFD)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

DALLAS SYLVESTER, SEARGENT 1,  
and SEARGENT 2,

Defendants.

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Plaintiff Michael Hangman initiated this action on March 3, 2021, by filing a Complaint and an Application to Proceed Without Prepaying Fees or Costs. On April 14, 2021, this Court directed Hangman to pay an initial partial filing fee of \$85.06. (Initial Fee Order, Dkt. No. 10.) On June 3, 2021, Hangman sought and received a 60-day extension of time to file his initial partial fee, making the fee due on August 9, 2021. (Mot. Extension, Dkt. No. 11; Order, June 9, 2021, Dkt. No. 12.) Hangman was warned that if he did not pay his initial partial fee, his action would be deemed abandoned, and the Court would recommend that his case be dismissed without prejudice for lack of prosecution. (Initial Fee Order at 4, Dkt. No. 10); Fed. R. Civ. P. 41(b). Although Hangman has been transferred to several different facilities since he commenced this case and some mail sent from the Court has been returned as undeliverable, there is no indication on the docket that he did not receive the Court's June 9, 2021 Order.

The August 9, 2021 deadline has passed without any correspondence or payment from Hangman. Hangman's lack of payment, lack of communication in the past two months, and failure to comply with this Court's June 9, 2021 Order constitute a lack of prosecution. Accordingly, this Court now recommends that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Based upon the foregoing, and on all of the files, records, and proceedings herein,  
**IT IS HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute; and
2. The pending Application to Proceed Without Prepaying Fees or Costs (Dkt. No. 9) be **DENIED AS MOOT**.

Dated: August 18, 2021

s/ John F. Docherty  
JOHN F. DOCHERTY  
United States Magistrate Judge

**NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).